

REMARKS

This communication is in response to the non-final official action mailed on April 10, 2006. In this response, claims 1 - 46 are presented without amendment. Reexamination and reconsideration of the above-captioned application pursuant to and consistent with 37 C.F.R. § 1.112, in light of the remarks which follow, are respectfully requested.

The examiner rejected claims 1 - 46 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Cottard (U.S. Application No. 2001/0023515) in view of Huglin (WO 00/25730). Applicants respectfully traverse each of the examiner's arguments.

Foremost, applicant disagrees with the examiner's contention that there is sufficient teaching, suggestion, or motivation for one skilled in the art to combine Cottard and Huglin. Cottard teaches a composition for oxidative dyeing of keratin fibers comprising an oxidation dye, a thickening polymer having a fatty chain, and a fatty alcohol having more than twenty carbon atoms. Cottard does not, however, teach the use of amino-based carboxylic acids in conjunction with hair dyeing compositions, a point which the Patent Office concedes. Nor does Cottard provide any suggestion or motivation, either explicitly or implicitly, that such acids could be or should be combined with the hair dye compositions it discloses. Indeed, there are no references in Cottard to any amino-based carboxylic acid compounds, let alone the specific compounds of Formula (I).

Nor is there any teaching, suggestion, or motivation in Huglin for the combination. Foremost, Huglin is not in the field of the claimed invention as Huglin relates to photolytic degradation while the claimed invention is directed to providing enhanced dyeing efficacy. Nor do they solve the same problems. Hugline uses certain compounds, which could include amino-based carboxylic acids, amongst many others in a light protective

system. This offers nothing to one seeking to sequester amino elements of a hair dye system. Indeed, one skilled in the art would not be motivated by Huglin to combine light stabilizers with hair dyes as a sequestering agent, and there is no teaching by Huglin to use the analogous compounds alone, and not part of a light sensitivity system.

Moreover, Huglin provides no teaching or suggestion, as to why any specific amino-based carboxylic acid should be utilized in a particular body-care product, and especially a hair dye. Huglin discloses light stabilizers for protecting both household and body-care products generally from photolytic degradation. Huglin also discloses mixing the light stabilizers with complex forming compounds. Huglin merely provides a formula enumerating a wide number of possible compounds including some possible amino-based carboxylic acids, along with a listing of other generic classes of unrelated "complexing agents. See Huglin, pages 12 - 14." This list stretches over numerous pages. As such, Huglin provides no guidance as to why one skilled in the art would choose any one complexing agent, let alone any one amino-based carboxylic acid.

Furthermore, there is no teaching or suggestion in Huglin to add only an amino-based carboxylic acid to a hair dyeing composition or product. While Huglin does teach the addition of a light stabilizer in conjunction with multiple other components to a hair-care product, Huglin does not teach or suggest adding only an amino-based carboxylic acid to any product, and certainly not to a hair dye product. As such, Huglin teaches a system comprising a mixture of components for light stabilization, but teaches away from the addition of only an amino-based carboxylic acid.

Finally, Huglin does little more than provide an elaborate listing of various body care and household products in which the light stabilizer combinations might be used. Hair

dyeing products are only mentioned in passing and grouped in a listing with other "[s]uitable hair-care products...", and no specific formulation is proposed, let alone one including amino-based carboxylic acids. Huglin, page 24. As such, Huglin does not provide the necessary teaching, suggestion, or motivation, either explicitly or implicitly, to combine an amino-based carboxylic acid with a hair dye. Accordingly, the examiner's *prima facie* case fails.

Even if the amino-based carboxylic acid complex formers of Huglin were combined with the hair dyeing compositions of Cottard, there is no reasonable expectation of success that such a combination would yield the claimed invention. The examiner contends that one skilled in the art could "arrive at the claimed invention with [a] reasonable expectation of success for protecting the hair against photolytic degradation and would expect such a composition to have similar properties to those claimed." Official Action, page 4. Aside from these mere conclusory statements, the Patent Office fails to provide any basis for their assumption that an amino-based carboxylic acid and dye combination would result in a hair dye composition or product having similar properties to the claimed invention. In fact, the Patent Office provides no basis for one to even speculate that such a combination would have desirable properties or that such a combination would even be capable of functioning as a hair dye product. Moreover, there is no teaching, suggestion, or motivation on this record that the amino-based carboxylic acids of Huglin will have a sequestering effect. As will all chemical systems, merely adding a component useful in one application does not necessarily mean that that component will yield desirable properties when combined with another application. Accordingly, the examiner should withdraw here rejection.

With regard to the method claims, neither Cottard nor Huglin teach applying the combination of hair dyes and amino-based carboxylic acids to hair. While Cottard does disclose a method of applying a composition to keratin fibers comprising a first composition comprising an oxidation dye and a second composition comprising a developer, such a method does not teach or suggest applying an amino-based carboxylic acid in conjunction with a dye or developer. Similarly, while Huglin teaches the use light stabilizers in conjunction with an amino-based carboxylic acid, such a disclosure does not teach or suggest combining an amino-based carboxylic acid with a hair dye without a light stabilizer. As such, the examiner's *prima facie* case with regard to the method claims fails and the rejection of claim 45 should be withdrawn.

Similarly, neither Cottard nor Huglin teach devices containing a combination of dyes and amino-based carboxylic acids. While Cottard does disclose a "kit" or device containing a first compartment having an oxidation dye and a second compartment having an oxidizing agent, Cottard does not teach or suggest such a "kit" containing an amino-based carboxylic acid. Moreover, Huglin does not teach "kits" or devices and certainly does not suggest that amino-based carboxylic acids could be combined with hair dye devices. As such, the examiner's rejection of claim 46 should be withdrawn.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

Application No.: 10/808,676

Docket No.: LOREAL 3.0-015

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

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